

25 FEB 1999



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In re Application of
Urband Widlund
U.S. Application No.: 09/194700
PCT No.: PCT/SE98/00187
Int. Filing Date: 03 February 1998
Priority Date: 04 February 1997
Attorney's Docket No.: 000515-141
For: Absorbent Article Having Improved
Surface Properties

DECISION ON

PETITION

UNDER 37 CFR 1.137(B)

This is in response to applicant's "Petition to Revive Under 37 CFR 1.137(b)", filed 01 December 1998, requesting the above-captioned application be revived.

BACKGROUND

On 03 February 1998, applicant filed the above-captioned international application claiming priority to a Swedish patent application 9700371-9, filed 04 February 1997.

Applicant failed to file a Demand with the International Preliminary Examination Authority electing the United States prior to the expiration of 19 months from the priority date. Accordingly, the 20 month period for filing a national application and paying the basic national fee in the United States expired on 05 October 1998 (04 October 1998 was a Sunday).

On 01 December 1998, applicant filed a transmittal letter for entry into the national stage in the United States under 35 U.S.C. 371 which was accompanied by, *inter alia*, the above-captioned petition; a check for the petition fee of \$1,210.00; a check for the basic national fee of \$970.00; and authorization to charge Counsel's Deposit Account 02-4800 any additional fees which may be required.

DISCUSSION

A review of the application file reveals that no Demand for the international preliminary examination, was filed. Therefore, the 20 month period for paying the basic national fee for entry into the national stage in the United States ended on 04 October 1998. Since applicant failed to submit a copy of the international application and pay the basic national fee by this date, the application went abandoned.

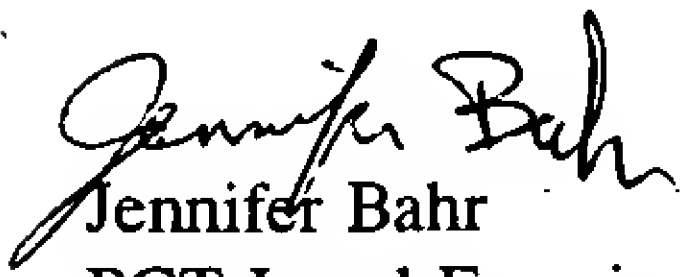
A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional delay must be accompanied by (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional", and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The required reply was payment of the basic national fee. The appropriate petition fee of \$1,210.00 as required by 37 CFR 1.17(m) has been submitted. However, finance records indicate the \$1,210.00 was refunded to applicant on 09 December 1998. As the \$1,200.00 fee is required for the instant petition, counsel's Deposit Account No. 02-4800 has been charged the \$1,210.00. Applicant's petition includes the statement, "the entire delay in filing the required reply (i.e., the national phase application) from their due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," as required by 37 CFR 1.137(b)(3). The terminal disclaimer is not required in this application since it was filed after 08 June 1995. Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.


DECISION

In view of the discussion mentioned above, applicant's petition under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the United States Designated/Elected Office for further processing including mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) for failing to include the oath or declaration of the inventors and provide the surcharge fee for furnishing the declaration after 20 months from the priority date under 37 CFR 1.492(e).


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